IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CIVIL JURISDICTION

FIRST APPEAL NO.965 OF 2002
WITH
CIVIL APPLICATION NO.7907 OF 1999

The State of Maharashtra.)..APPELLANT

Versus

Shri Trimbak Tukaram Patil)
since deceased through his heirs:
1.Shri Krishna T. Patil & Ors.)..RESPONDENTS

Ms.K.K.Tated, A.G.P.for the Appellant
Mr. U.S. Upadhya with Mr. S.G. Surana, for the Respondent

CORAM: F.I. REBELLO & ANOOP V.MOHTA, JJ.
DATE : 26th August, 2004

P.C.:

1. Appeal along with Civil Application are being disposed of by this common order.

2. Notification under Section 4 was published on 3rd February, 1970. The award in respect of property identified under Survey No.535/3, 562/1/3, 566/3A, 566/3B, 799/1, 574/3/5 and 574/3/1 + 1B was made on 30th March, 1981, the award in respect of property identified under Survey Nos.574/3/5 and 574/3/1 + 1B was made on 13th February, 1982.

3. The possession of the land forming the subject matter was taken on 16th March, 1982.

4. The Pune Mumbai High from the land is situated at a distance of 500 to 750 meters.

5. Considering the judgment passed in First Appeal No.757 of

2003 with Civil Application No.514 of 2003 and First Appeal No.1782 of 2002 along with Civil Application NO.1078 of 2004 the market value of the land is fixed at Rs.25/- per sq. meter. Consequently, they are entitled to all consequential benefits.

6. Considering that the award under Section 11 was made before 20th April, 1982 the claimants would not be entitled to compensation under Section 23(1)(A) of the Act.

7. In the light of that the First Appeal is partly allowed in terms what is set out above. Civil Application disposed of.

9. If the Appellant State has deposited the amount and the amount has been withdrawn on furnishing bank guarantee the claimants are bound to make restitution in respect of the excess amount received by them from the date they received the amount from the Reference Court to the date of payment. They shall also pay interest quantified at 6% per annum till the date of payment.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J)